Airspace Delegation: Preserving Indonesia Territorial Sovereignty through Flight Information Regions Realignment

Afandi Sitamala
Fakultas Hukum, Universitas Sultan Ageng Tirtayasa
Jl. Raya Palka Km 3 Sindangsari, Pabuaran, Serang, Banten
Email: asitamala@untirta.ac.id

DOI: http://dx.doi.org/10.51825/sjp.v3i2.22932


ABSTRACT:

"He who commands the skies commands all." General Giulio Douhet’s renowned 1921 quote resonates even a century later. On January 25, 2022, Indonesia and Singapore settled longstanding bilateral issues, including aviation needs and safety. A crucial aspect was the realignment of their flight information regions (FIRs). This paper delves into the FIR concept, emphasizing the delicate balance between air safety and territorial sovereignty. The FIR agreement safeguards Indonesia’s sovereignty while fostering collaboration with Singapore in airspace management. However, it has sparked debates on specific aspects, especially the limited delegation of airspace to Singapore. The intricacies of delegating airspace management have fueled discussions. Additionally, concerns have emerged about the FIR's impact on maritime security operations, given that reporting to the Singapore FIR allows monitoring of maritime security vessels.

Keywords: Flight Information Regions; Airspace; Sovereignty; Air Safety Navigation
Pendelegasian Ruang Udara: Menjaga Kedaulatan Wilayah Indonesia Melalui Pembenahan Flight Information Regions

ABSTRAK:


Kata Kunci: Flight Information Regions; Ruang Udara; Kedaulatan; Keamanan Navigasi Udara
INTRODUCTION

The renowned statement from General Giulio Douhet in 1921, "He who controls the air controls everything", remains impactful even a century later. Many leading air power nations still uphold a comparable sentiment in their official doctrines.\(^1\) Though the quote tends to imply the armed conflict situation, the quote resonates with Indonesia's strive to reclaim the Flight Information Regions (FIR) that has been delegated to Singapore since 1946.

On 25 January 2022, the Governments of Indonesia and Singapore concluded a set of agreements on three longstanding bilateral issues, including aviation needs and safety, as they realigned the boundary between their respective FIRs. Further, on 5 September 2022, Indonesia ratified the FIR through presidential regulation (Perpres 109/2022)\(^2\) to officially ratified the FIR agreement.

As per the FIR agreement, Indonesia and Singapore have agreed that Jakarta will assume control over the airspace above the Riau Islands province in Indonesia. Since 1946, the administration of this airspace has been under Singapore's authority, as directed by the International Civil Aviation Organization (ICAO).

During the 1946 ICAO convention in Dublin, Ireland, Singapore, under British rule at the time, was granted control of the airspace above the Riau Islands. This decision was based on Singapore's perceived technological capabilities and sufficient manpower, while Indonesia, which had declared independence from the Dutch a year earlier, was engaged in a challenging war of independence against their former colonial rulers.\(^3\)

ICAO recognizes each country's air transportation support facilities as a significant factor in establishing the authority to oversee and regulate air traffic within the FIR. A country has the option to delegate the supervision of the FIR to another nation. It is important to note that such delegation does not undermine the sovereignty of the delegating country.\(^4\)

---

\(^{1}\) Ahlawat, Ajay K, Control of the Air: The Primary Air Power Role, Defense Technical Information Center, Accessed 6 July 2023


\(^{4}\) Mangisi Simanjuntak, “Pengambilalihan Flight Information Region (FIR) Indonesia dari Singapura”, Jurnal Hukum: To-Ra Hukum Untuk Mengatur dan Melindungi Masyarakat, Vol. 6 No.2 Agustus
The decision to delegate the management of the FIR to Singapore was also based on ICAO's assessment that Indonesia, a newly independent nation at the time, did not possess the necessary technological capabilities to deliver adequate air traffic services.\(^5\)

According to international law, airspace across the globe is divided into FIR. Each country is responsible for offering flight information and navigation services within its designated FIRs. The Singapore FIR, managed by air traffic controllers in Singapore since 1946 through international agreements to ensure aviation safety, presently includes the airspace over the Riau and Natuna islands.

However, Jakarta has been actively pursuing a realignment of this airspace, which has led to ongoing discussions regarding the agreement. As per the FIR agreement, certain portions of Singapore's FIR that currently encompass the airspace above the Riau Islands and Natuna Islands in Indonesia, covering an area of approximately 249,575 sq km, will be incorporated into Indonesia's FIR.

However, Indonesia will entrust the provision of air navigation services for a section of this realigned airspace to Singapore for 25 years, with the potential for extension.\(^6\)

One important point outlined in the 2022 realignment agreement is the revision of the Jakarta FIR boundaries, covering the entire territorial expanse of Indonesia.

---


Consequently, the waters surrounding the Riau Islands and Natuna Islands, previously within the Singapore FIR, are now incorporated into the Jakarta FIR.

This development reinforces Indonesia's sovereignty as an archipelagic nation, as the return of the FIR over the Riau Islands and Natuna Islands emphasizes Indonesia's authoritative status and territorial control over its airspace.

The airspace above the Riau Islands is a crucial flight corridor for arrivals and departures at Singapore's Changi Airport. Under the agreement, Singapore will continue to regulate flights through certain portions of Indonesia's FIR for 25 years, with the possibility of extensions. This arrangement safeguards the status of Changi Airport as a prominent air hub in Asia.

To maintain Indonesia's sovereignty, the country's Coordinating Ministry of Maritime

and Investment Affairs has stated that "civil aviation services under the reclaimed FIR will be delegated, and Indonesian personnel will be stationed at a Singapore air traffic control center." This measure ensures the preservation of Indonesia's sovereignty while collaborating with Singapore in managing the airspace.

The FIRs, considered a success for Indonesia, have resulted in the return of airspace management over the Riau and Natuna Islands to Indonesia, thereby expanding Jakarta's FIR.

However, Indonesia will still delegate the operation of the FIR to Singapore for the next 25 years, with the possibility of an extension. The delegation and extension have drawn the attention of academics and practitioners in aviation law and maritime law, leading to discussions on the agreement and the potential impacts on Indonesia's air and maritime security vulnerability.
METHOD

This research employs both normative and empirical legal methodologies. Following Soerjono Soekanto's perspective, the normative approach views law as a set of norms, rules, regulations, and statutes enforced within a specific context, arising from the absolute power of the sovereign state. In this study, normative legal research is a systematic process to extract pertinent legal rules, principles, or doctrines relevant to the addressed issue.

Furthermore, this study relies on primary and secondary data sources. Analysis and discussion are presented descriptive-explanatory, namely by describing the findings of the principles, doctrine, theory with events that occur and provide detailed explanations.

DISCUSSION

1. Flight Information Region Under International Law

The assertion of national sovereignty in airspace has implications that each country has the rightful authority to fully manage and exercise control over its own national airspace. Moreover, no activities within airspace can be conducted without prior permission or unless stipulated in an international agreement between countries, whether in the form of bilateral or multilateral agreements.

Sovereignty is an essential component of a nation as it represents the existence of a state. Sovereignty can be defined as the absolute right or supreme authority held by a nation to carry out its functions, duties, and obligations within its territory without any intervention from other countries. It is important to note that, at this stage, territorial sovereignty is not in question.

Based on Article 1 Convention on International Civil Aviation 1944 (Chicago Convention) mentioned that “The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory” while based on this article there are no question on sovereignty. Indonesia has the full sovereignty on the airspace above its territory.

The delegation of FIR to another country has legal foundations in international law. The same applies to the takeover of FIR. In international law, the takeover of FIR is addressed in Annex 11 of the Chicago Convention 1944. Chapter 2.1.1 states:

---

14 Indonesia has ratified the Chicago Convention 1944 into Law Number 1 2009 on Aviation
“Contracting States shall determine, in accordance with the provisions of this Annex and for the territories over which they have jurisdiction, those portions of the airspace and those aerodromes where air traffic services will be provided. They shall thereafter arrange for such services to be established and provided in accordance with the provisions of this Annex, except that, by mutual agreement, a State may delegate to another State the responsibility for establishing and providing air traffic services in Flight Information Regions, control areas or control zones extending over the territories of the former.”

There are five important elements in the agreement, as follows:

1) The agreement includes the adjustment of the Jakarta FIR boundaries, extending over the entire territorial waters of Indonesia. This expansion incorporates the waters surrounding the Riau Islands and Natuna Islands, previously part of the Singapore FIR, into the Jakarta FIR;

2) Indonesia has the right and responsibility to provide air navigation services (ANS) within the Indonesian FIR, which aligns with its territorial waters. In collaboration with Singapore, Indonesia will delegate the provision of ANS in specific areas of the Indonesian FIR bordering the Singapore FIR. The delegation entails assigning Singapore the responsibility for ANS in the designated areas at altitudes ranging from 0 to 37,000 feet, while Indonesia retains control over airspace above 37,000 feet. This arrangement facilitates efficient coordination and prevents fragmentation of air traffic between the two countries, specifically for flights departing from and heading to Singapore within the specified altitude range. It is important to note that the limited delegation of ANS in specific areas of the Jakarta FIR to Singapore does not compromise Indonesia's authority to conduct civil and military activities within its airspace in accordance with its sovereignty and sovereign rights. The Indonesian aviation authority will continue to coordinate flights throughout the Jakarta FIR;

3) In addition to managing airspace for civil aviation, Singapore has agreed to establish a framework for Civil-Military Coordination in Air Traffic Control (CMAC). The primary objective is to ensure active communication channels that safeguard against any violation of Indonesia's sovereignty and sovereign rights. To achieve this, the Indonesian government will station civilian and military personnel at the Singapore Air Traffic Control Centre (SATCC). This provision is explicitly outlined in the signed FIR agreement. As part of the limited ANS delegation, the Singapore Air Navigation Authority is obligated to prevent and promptly report any potential

15 Certified True Copy of Agreement Between The Government of Indonesia and The Government of Singapore on the Realignment of the Boundary Between the Jakarta FIR and the Singapore FIR.
infringement of Indonesian airspace by foreign aircraft to the relevant Indonesian air defense authorities;

4) Singapore is also obligated to remit fees for the air navigation services provided to aircraft traveling to and from Singapore. The delegation of ANS will undergo strict monitoring and evaluation by the Ministry of Transportation. Periodic and continuous evaluations of the ANS delegation to Singapore will be conducted, facilitated by the placement of Indonesian personnel at the Singapore Air Traffic Control Tower;

5) Indonesia retains the right to conduct operational evaluations to ensure compliance with ICAO regulations regarding the provision of air navigation services by Singapore.

Each contracting state of the Chicago Convention 1944 has the right to determine the airspace services within its own territory. However, for certain reasons, such as the inability to provide air navigation technology, a country can delegate the management of its airspace to another country through mutual agreement.

This agreement can be terminated by both countries at any time if desired.\textsuperscript{16} This provision is stated in Chapter 2.1.1 of Annex 11 of the Chicago Convention 1944:

\textquote{If one State delegates to another State the responsibility for the provision of air traffic services over its territory, it does so without derogation of its national sovereignty. Similarly, the providing State's responsibility is limited to technical and operational considerations and does not extend beyond those pertaining to the safety and expedition of aircraft using the concerned airspace. Furthermore, the providing State in providing air traffic services within the territory of the delegating State will do so in accordance with the requirements of the latter which is expected to establish such facilities and services for the use of the providing State as are jointly agreed to be necessary. It is further expected that the delegating State would not withdraw or modify such facilities and services without prior consultation with the providing State. Both the delegating and providing States may terminate the agreement between them at any time.} 

While it is legally and practically possible to establish an agreement between both parties regarding the transfer of FIR management based on Chapter 2.1.1 of Annex 11 of the Chicago Convention 1944, there are restrictions for Singapore as the receiving state (providing state) from Indonesia (delegating state).

These limitations ensure that the management of the FIR does not disregard the delegating state's national sovereignty. Singapore's role in managing the FIR involves providing facilities and services and

\textsuperscript{16} Eurocontrol, FIR Charts 2023, via: https://www.eurocontrol.int/publication/flight-information-region-firuir-charts-2023 accessed November 28th 2023
assuming technical and operational responsibilities, but it does not include safety responsibilities.

In addition, through the revenue from the collections Route Air Navigation Services (RANS) will greatly benefits Indonesia. One of the officials from Director General of Air Transportation, Ministry of Transportation Indonesia claim that Indonesia has the opportunity to obtain a profit of IDR 250 billion per year, which is equivalent to approximately USD 17.3 million, derived from the service fees that will be generated in Indonesia. 17

Article 6 of FIR Air Navigation Charges stated that:

“The Government of the Republic of Singapore shall collect on behalf of and for the Government of the Republic of Indonesia, air navigation charges on civil flights in Sectors A and B. The rates of the air navigation charges in Sectors A and B will be jointly agreed between the Parties.”

By the delegation, Indonesia is entitled to receive revenue from the collection of RANS for flights operating between Indonesia and Singapore.

2. Territorial Sovereignty and Air Safety Navigation

There is no longer any dispute regarding territorial sovereignty after implementing the FIR agreement in 2022. Paradoxically, there has been a contentious discussion surrounding the accomplishments, particularly concerning a specific aspect of the agreement.

It states that, in the interest of flight safety, Indonesia continues to delegate less than one-third (approximately 29%) of the airspace surrounding Singapore to the Singapore Aviation Navigation Authority on a limited basis. The delegation pertains to the airspace at altitudes ranging from 0 to 37,000 feet, which Singapore will still manage.

However, the airspace above 37,000 feet is now under Indonesia's management. This delegation agreement has sparked criticism from various groups. It is important to note that civilian air traffic rarely operates above 37,000 feet, as flights in this altitude range are primarily for transit.

The recently ratified agreement by Indonesia has brought about issues concerning maritime security operations. While FIR primarily relates to airspace and security, it also significantly impacts maritime

17 Nanda Indrawati, Peluang Dan Tantangan Penandatanganan Perjanjian Penyesuaian Flight Information Region (FIR) Antara Indonesia Dengan Singapura, Jurnal Paradigma Hukum Pembangunan, Vol 7 No 2 August 2022, p.18-36 https://doi.org/10.25170/paradigma.v7i2.3541
security. Optimal maritime security operations rely on air support, as ships need to be accompanied by aircraft. As a result, all movements of maritime security vessels within the area delegated from the Jakarta FIR to the Singapore FIR can be monitored due to the reporting requirements to the Singapore FIR.\(^\text{18}\)

In operational terms, the FIR may not be directly linked to sovereignty as it relates to flight safety. However, it still carries aspects of sovereignty since the division of FIR is based on national sovereignty.

The operation and takeover of FIR by Indonesia have been regulated in the Aviation Law. However, the presidential regulation delegating the FIR to Singapore undermines the objectives outlined in the Aviation Law.

The FIR is exclusively granted to a country due to its sovereignty, which is directly linked to freedom of activity. This means a country does not require prior permission to conduct activities within its territory.

Nevertheless, Singapore's managing of the FIR, which includes civilian and military aircraft passing through the FIR, requires reporting information to the FIR. Consequently, there is no confidentiality around marine or military patrol aircraft activities, posing challenges and limitations for Indonesian ministries and agencies performing surveillance and search and rescue (SAR) tasks.

Moreover, the FIR plays an essential role in SAR operations since it sets operational parameters and acts as the foundation for collecting data and initial information for operation execution. Furthermore, the FIR affects not only aircraft operations but also drone activities, as they require permission from the FIR to perform surveillance in airspace and maritime areas.

The FIR faces three-dimensional challenges: sovereignty, security, and efficiency. Exploring the complexities of the FIR highlights the necessity for a balanced approach that considers the interests of all stakeholders concerned. It highlights the importance of clear regulations, collaboration among neighbors, and compliance with international standards and agreements.

\(^\text{18}\) During the academic discussion on *Padjadjaran Dialektika* hosted by the Indonesian Center for International Law and the International Law Department of the Faculty of Law at Universitas Padjadjaran, a panel of legal experts explored the issues surrounding the Flight Information Region (FIR) from intriguing perspectives. The discussion, held on Thursday, November 10, 2022, featured three distinguished speakers: Aan Kurnia, the Head of the Maritime Security Agency of the Republic of Indonesia; Atip Latipulhayat, a Professor of Law at Universitas Padjadjaran; and Chappy Hakim, the Chair of the Indonesia Center for Air Power Studies via: https://www.unpad.ac.id/2022/11/perjanjian-realignment-fir-dan-dampaknya-terhadap-kedaulatan-laut-dan-udara-indonesia/ accessed 6 July 2023
The intricacies of the FIR highlight the significance of strong legal frameworks and constant debate in addressing the multifaceted difficulties associated with airspace management. Policymakers and aviation authorities can strive toward harmonious solutions that promote safety, efficiency, and respect for sovereignty within a well-defined legal framework by recognizing the difficulties and dimensions of the FIR.

Managing the FIR necessitates a careful mix of state sovereignty, airspace safety, and fostering effective air traffic management. It emphasizes the importance of explicit legislative restrictions that handle the unique issues created by the FIR.

Furthermore, collaboration and coordination among neighboring countries are important for addressing common concerns and establishing efficient FIR management frameworks. Policymakers and stakeholders can strive for an ideal balance that protects sovereignty, improves safety, and allows effective airspace management by taking a holistic approach and addressing the three-dimensional features of the FIR.

The management of the FIR is not directly related to problems of national sovereignty for these lands. It adds that Indonesia is in charge of administering the FIR in these areas.

Operationally, Indonesia should enhance knowledge regarding FIR management's operational and administrative components, emphasizing that it falls under the purview of air traffic control rather than territorial sovereignty.

This clarification offers useful insights into FIR management and helps to clarify myths regarding the relationship between FIRs and territorial sovereignty.

CONCLUSION

The FIR Agreement secures Indonesia's sovereignty while fostering collaboration with Singapore in airspace management. Nonetheless, it has sparked heated discussions concerning certain elements of the agreement. Debates have arisen, especially regarding the intricate delegation of airspace, with particular emphasis on the constrained transfer of airspace authority to Singapore.

The impact of the FIR on maritime security operations has prompted worries due to the reporting obligations to the Singapore FIR facilitating the monitoring of maritime security vessels. Managing the FIR necessitates a nuanced equilibrium among sovereignty, safety, and efficiency. Clarity in legal regulations, effective collaboration among neighboring nations, and adherence to global standards play a pivotal role in tackling the diverse issues tied to airspace management. By comprehending the intricacies and obstacles of the FIR, policymakers and aviation authorities can strive for
cohesive resolutions that prioritize safety, efficiency, and respect for sovereignty within a clearly defined legal structure.

**BIBLIOGRAPHY**

Ahlawat, Ajay K, Control of the Air: The Primary Air Power Role, Defense Technical Information Center, Accessed 6 July 2023

Ayman Falak Medina, ASEAN Briefing, “Indonesia and Singapore Sign Important Defense, Airspace Management, and Extradition Treaties”, Published 31 January 2022

Arlina Arshad, The Straits Times, Jokowi signs regulation to ratify agreement with Singapore on Flight Information Region, Published 8 September 2022, 6:42

Bahri P.S, Canris (2022) “Politik Hukum Pengambilalihan Flight Information Region (FIR) Dari Singapura,” “Dharmasiswa” Jurnal Program Magister Hukum FHUI: Vol. 2, Article 7, p.88. Available at: https://scholarhub.ui.ac.id/dharmasiswa/vol2/iss1/7

Certified True Copy of Agreement Between The Government of Indonesia and The Government of Singapore on the Realignment of the Boundary Between the Jakarta FIR and the Singapore FIR.

Convention on International Civil Aviation 1944

Eurocontrol, FIR Charts 2023, via: https://www.eurocontrol.int/publication/flight-information-region-firuir-charts-2023


Indonesia Law Number 1 2009 on Aviation


Nanda Indrawati, Peluang Dan Tantangan Penandatanganan Perjanjian Penyesuaian Flight Information Region (FIR) Antara Indonesia Dengan Singapura, Jurnal Paradigma Hukum Pembangunan, Vol 7 No 2 August 2022, p.18-36
https://doi.org/10.25170/paradigma.v7i2.3541

Padjadjaran Dialektika hosted by the Indonesian Center for International Law and the International Law Department of the Faculty of Law at Universitas Padjadjaran, held on Thursday, November 10, 2022.


